

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 00-0205P**

Gross Income Tax

Calendar Years 1992, 1993, 1994, 1995, 1996, and 1997

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**ISSUE(S)**

I. **Tax Administration**—Penalty

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer, incorporated in Delaware, was audited for calendar years 1992, 1993, 1994, 1995, 1996, and 1997. Upon audit it was discovered that the taxpayer failed to report gross income subject to tax for calendar years 1995, 1996, and 1997.

Taxpayer states that it timely filed its Indiana corporate tax returns for 1995, 1996, and 1997 and the returns were completed to the best of the company's understanding. Taxpayer states that it relied on the instructions for Form IT-20 and it had minimal property and payroll in Indiana. Further, customers' orders were approved by either the corporate office in California or the regional office in Illinois. Based upon these facts and its understanding of the Indiana Gross Income Tax statutes, interstate commerce deductions were taken against the receipts.

I. **Tax Administration**—Penalty

**DISCUSSION**

Taxpayer was assessed a negligence penalty for failure to report gross income subject to tax for calendar years 1995, 1996, and 1997 and states the examination deficiencies were not a result of negligence. Taxpayer requests a waiver of the negligence penalties.

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PAGE #2

Taxpayer's audit indicates that it reported gross income subject to tax for calendar years 1992, 1993, and 1994. For 1995, 1996, and 1997, the taxpayer failed to report the income.

Taxpayer has not provided reasonable cause to allow a penalty waiver.

**FINDING**

Taxpayer's protest is denied.

DW/RAW/JMS/dw 000906